

# **EXHIBIT 43**

David Bolin

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL )  
ETHER ("MTBE") PRODUCTS LIABILITY )  
LITIGATION )

) Master File No.:

) 1:00-1898

This Document Relates to: )

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) 1358 (SAS) M21-99

)  
Orange County Water District v. )  
Unocal Corp., et al, Case No. 04 )  
Civ 4968 (SAS) )

VIDEOTAPED DEPOSITION OF DAVID P. BOLIN

Thursday, February 24, 2011

10:07 a.m.

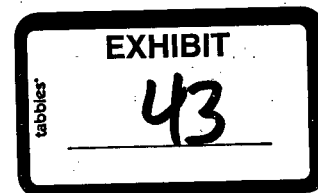
3 Park Plaza, Suite 1100

Irvine, California

REPORTED BY:

Victoria A. Guerrero

CSR No. 8370, RPR, CRR, CLR



**David Bolin**

Irvine, California

Thursday, February 24, 2011; 10:07 a.m.

ooOoo

THE VIDEOGRAPHER: Good morning. We're on the record. This is the videotaped deposition of David Bolin in regards to Methyl Tertiary Butyl Ether products liability litigation relating to Orange County Water District versus Unocal et al. Case No. 04CIV4968 (SAS).

This deposition is taking place at the 3 Park Plaza, Suite 1100, Irvine, California 92614 on February 24th, 2011, at 10:07 a.m.

My name is Rene Hernandez. I'm the videographer representing US Legal Support. Video and audio recording will be taking place unless all counsel have agreed to go off the record.

Would all present please identify themselves beginning with the witness.

THE WITNESS: David Bolin, Orange County Water District.

MS. O'REILLY: Tracey O'Reilly, Miller, Axline & Sawyer for plaintiff Orange County Water District and the witness.

MR. ADAMS: Mark Adams, G & M Oil.

MR. THÉARD: Olivier Théard at Shepherd Mullin

David Bolin

1 TBA.

2 BY MR. ADAMS:

3 Q Okay. And have there been any MTBE releases  
4 from Number 4 since your deposition in 2008?

5 A Again, not MTBE. I'm not certain about TBA.

6 Q Now, to your knowledge -- let me ask you  
7 foundationally: Have you ever informed any regulatory  
8 agency about MTBE releases from Number 4?

9 MS. O'REILLY: Asked and answered.

10 THE WITNESS: I don't recall learning of such  
11 releases and then informing the regulatory community  
12 about that.

13 BY MR. ADAMS:

14 Q And so that would include the Regional Water  
15 Control Board, right?

16 A Yes.

17 Q And the Orange County Healthcare Agency, right?

18 A Yes.

19 Q And the Department of Health Services, right?

20 A Uh --

21 MS. O'REILLY: That misstates testimony. Vague  
22 and ambiguous. Lacks foundation.

23 THE WITNESS: Yes.

24 BY MR. ADAMS:

25 Q And we talked about actual releases. Have you

11

David Bolin

1 informed any governmental agency about a suspected  
2 release of MTBE from Number 4?

3 MS. O'REILLY: Calls for speculation. Asked  
4 and answered. Calls for an expert opinion. Go ahead.

5 THE WITNESS: I don't recall having  
6 conversation like that.

7 BY MR. ADAMS:

8 Q All right. Are there drinking water wells that  
9 have had any MTBE detections within this plume, Number  
10 1?

11 MS. O'REILLY: Calls for expert opinion. Asked  
12 and answered. Calls for speculation. Vague.  
13 Ambiguous. Overbroad.

14 THE WITNESS: Again, I provided previous  
15 testimony to that effect. There is one production well  
16 in which MTBE has been detected.

17 BY MR. ADAMS:

18 Q Do you need to look at your notes?

19 A No.

20 Q Okay. Have there ever -- and what production  
21 well was that?

22 A It's a Huntington Beach well. I believe it's  
23 called LIBM or MB, I forget the actual name of the well.  
24 LIBM-HB, I think is what it was.

25 Q I don't mind if you look through your notes.

12

David Bolin

1 County Water District.

2 That was before your tenure with the water  
3 district, correct?

4 A Yes.

5 Q And to your knowledge, there have never been  
6 any complaints regarding the taste of MTB in any of the  
7 drinking waters, in any of the water from the wells  
8 within the purported Plume 1, correct?

9 MS. O'REILLY: I'm going to object and instruct  
10 the witness that this is outside the scope of the  
11 deposition notice.

12 This is also outside the scope of the  
13 district's knowledge. The district has repeatedly  
14 stated that they have no information on taste and odor  
15 complaints as that is directed to the water producer and  
16 that deposition was taken in this case on taste and odor  
17 complaints. We are not repeating it here.

18 Go ahead.

19 THE WITNESS: I don't have knowledge about the  
20 complaints that have come in about taste and odor. I  
21 can't say whether there has or has not been any  
22 complaints.

23 BY MR. ADAMS:

24 Q And can you tell me what the principal aquifer  
25 is relate to go Plume 1?

15

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1 February 26, 2008?

2 A That's correct.

3 Q All right. And it showed a detection of MTBE  
4 of .04 parts per billion, right?

5 A Yes, it does.

6 Q All right. Are you aware of any other MTBE  
7 detections in that well other than on that date?

8 A No. My answer is the same as before. I could  
9 be wrong. I don't recall any other detections.

10 Q All right. And so my question is, then, is it  
11 because testing has not been done for MTBE or it has  
12 been done and you just don't recall any detections?

13 MS. O'REILLY: Asked and answered. Go ahead.

14 THE WITNESS: The well is routinely tested for  
15 contaminant compounds, MTB being one of them, and TBA.  
16 I don't know what the routine is or the schedule for  
17 testing this well. I'm not aware that -- I'm fairly  
18 certain it's been tested, but I'm not aware that MTBE or  
19 TBA has been detected in the well.

20 BY MR. ADAMS:

21 Q And you're not aware or you don't know whether  
22 any of the MTBE that has been detected in any of the  
23 wells has actually come from Number 4, correct?

24 MS. O'REILLY: Vague. Ambiguous. Overbroad.  
25 Asked and answered. Calls for expert opinion.

22

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1 THE WITNESS: I believe testimony's been  
2 provided discussing the source of MTB detected in these  
3 wells. These sites are upgradient of these wells.

4 And while we can't be certain exactly which  
5 site MTB originated from that's been detected in these  
6 wells, this site is considered a likely source based on  
7 the information, the data we have so far.

8 BY MR. ADAMS:

9 Q Okay. So the answer to my question is you  
10 don't know that it's from there, but you suspect that  
11 it's from there; is that a fair statement?

12 MS. O'REILLY: Asked and answered. Calls for  
13 an expert opinion. Vague and ambiguous. Go ahead.

14 THE WITNESS: Um, my answer stands. We  
15 consider this site to be a likely source.

16 BY MR. ADAMS:

17 Q But you don't know for sure, right?

18 A No, we don't know for sure.

19 MS. O'REILLY: Asked and answered.

20 BY MR. ADAMS:

21 Q Can you tell me -- you might have to refer to  
22 the map, but in round numbers, can you give me an  
23 estimate of how many feet the nearest threatened  
24 drinking water well is to Number 4?

25 MS. O'REILLY: Asked and answered. Vague.

23



David Bolin

1 BY MR. ADAMS:

2 Q Sorry -- to get into the production wells?

3 MS. O'REILLY: Vague. Ambiguous. Overbroad.

4 Asked and answered. Lacks foundation. Calls for  
5 speculation. Calls for a memory test.

6 THE WITNESS: I'm not sure if I understand your  
7 question correctly. Can I have that read back to me,  
8 please?

9 BY MR. ADAMS:

10 Q Yeah. I'm asking you, are you aware of any  
11 conclusion or determination by any governmental agency  
12 that MTBE has escaped remediation from Number 4 and has  
13 gotten into production wells?

14 MS. O'REILLY: Same objections.

15 THE WITNESS: No.

16 BY MR. ADAMS:

17 Q And you don't know how much, if any, MTBE the  
18 mass has escaped remediation for Number 4, right?

19 MS. O'REILLY: Calls for expert opinion. Lacks  
20 foundation. Incomplete hypothetical. Vague.  
21 Ambiguous. Overbroad. Asked and answered.

22 THE WITNESS: No.

23 BY MR. ADAMS:

24 Q And you don't know when any MTBE has escaped  
25 from remediation of Number 4, correct, if it did?

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David Bolin

1 a closure letter?

2 A I don't believe it has.

3 Q And I take it that you don't have any  
4 complaints about the work done by the oversight agencies  
5 concerning Number 4?

6 MS. O'REILLY: Exceeds the scope of the notice.  
7 Vague. Ambiguous. Overbroad. Calls for a memory test.  
8 Incomplete hypothetical. Go ahead.

9 THE WITNESS: I don't have any complaints.

10 MR. ADAMS: And the Orange County Water  
11 District hasn't undertaken any actions itself to  
12 remediate Number 4, right?

13 MS. O'REILLY: Misstates testimony. Asked and  
14 answered. Vague and ambiguous. Overbroad. Go ahead.

15 THE WITNESS: In the context of our ongoing  
16 investigation, that is part of our overall remediation  
17 effort, to delineate the degree and the extent of  
18 contamination before we can design an effective remedial  
19 program.

20 But to date, we have not exercised any active  
21 removal of contamination from the site.

22 BY MR. ADAMS:

23 Q Okay. So we can separate it into evaluation  
24 and investigation as opposed to any physical contact  
25 with the site, correct?

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1 done. He's answered your question.

2 MR. ADAMS: That's an instruction?

3 MS. O'REILLY: Yes, it is.

4 BY MR. ADAMS:

5 Q Have you aware of any facts -- strike that.

6 Are you aware of any facts that show that these  
7 wells are actually conduits for contamination into --  
8 deeper into the aquifer?

9 MS. O'REILLY: Asked and answered prior  
10 deposition. Vague and ambiguous. Go ahead.

11 THE WITNESS: I'm trying to recall Roy  
12 Hearnden's testimony. I think the answer is no.

13 BY MR. ADAMS:

14 Q Now, I recall from your 2010 depositions that  
15 the district has now engaged Hargus, right?

16 A Yes.

17 Q All right. And so what work, as of today, to  
18 your knowledge, what work has Hargus done with respect  
19 to -- I'll take it either way. You can either talk  
20 about Plume No. 1 or you can talk about G & M Oil  
21 Station No. 4.

22 A To date, Hargus has evaluated previous work by  
23 our prior consultant, Comex, on this site. It has  
24 prepared a work plan for discrete investigation of  
25 Bellwether plume sites. And this site was selected for

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1 an investigation and there is a current investigation  
2 taking place that is being conducted by Hargus on our  
3 behalf.

4 Q When you said this site, is that Plume 1 or is  
5 that Station No. 4?

6 A Specifically, Station No. 4.

7 Q All right. I'm looking at about a one-inch  
8 document on Hargus letterhead dated July 1, 2010.

9 Is this the document you're referring to?

10 A I would have to look at it.

11 Q Sure.

12 A I've flipped through the document. It looks to  
13 be the proposal that we received from Hargus to perform  
14 this work. I can't be certain without reviewing it in  
15 greater detail.

16 Q All right. Let's do this: As I understand it,  
17 this was a proposal that was given in July of 2010. And  
18 then there was a while before the board approved the  
19 work plan; is that a fair statement?

20 MS. O'REILLY: Misstates prior testimony.

21 THE WITNESS: I don't recall the date when it  
22 was first submitted, but I know that there was some  
23 discussion about the cost and insurance requirements.  
24 And so there was -- the contract was administered for  
25 some time.

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1           Again, I can't be certain of the time frame  
2       between receiving the original proposal and the board's  
3       authorization.

4       BY MR. ADAMS:

5           Q     All right. So how much was ultimately  
6       authorized by the board with respect to this project,  
7       the Hargus project?

8           MS. O'REILLY: It's been asked and answered  
9       extensively. Go ahead.

10          THE WITNESS: Are you asking me the cost?

11       BY MR. ADAMS:

12          Q     Yes.

13          A     And I'm sorry. Maybe I misunderstood your  
14       question. The cost pertains to all of the sites we were  
15       investigating.

16                Did you just ask me about this site  
17       specifically?

18          Q     No. It was the overall cost. Wasn't the cost,  
19       like, \$3 million or so?

20          A     Like 2.9 million. That's approximate.

21          Q     I'm just a lawyer so that's 3 million to me.  
22       So -- but that covered all of the sites that it was  
23       dealing with, right?

24          A     That's correct.

25          Q     And you said that G & M Site No. 4 was one of

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1 the sites?

2 A Yes.

3 Q Okay. And were there any costs that were  
4 direct costs for Site No. 4?

5 MS. O'REILLY: Vague. Ambiguous. Overbroad.  
6 Asked and answered. This has been covered in detail in  
7 prior depositions and in discovery responses.

8 THE WITNESS: The costs that were presented to  
9 us were for the total investigation and were not site  
10 specific.

11 BY MR. ADAMS:

12 Q Right. And I have the cost tab here, but I'm  
13 just going to ask you if you know. You can refer to  
14 this if you need to refresh your recollection.

15 What has been done as you sit here today by  
16 Hargus? What of its tasks have been completed?

17 MS. O'REILLY: Vague and ambiguous. You can  
18 ask him with respect to the two G & M Oil stations only.  
19 Go ahead.

20 THE WITNESS: They reviewed previous reports  
21 and established an approach to doing the investigation.  
22 And this is true for all the sites as well as G & M  
23 Station No. 4. And they have since initiated an  
24 investigation at this site, collected samples, and have  
25 submitted those for testing.

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1 MS. O'REILLY: -- is an expert issue. This is  
2 a lay deposition. It's an incomplete hypothetical.  
3 Assumes facts. Lacks foundation. Calls for  
4 speculation. Go ahead. Answer again.

5 THE WITNESS: I stand by my answer. We can  
6 read it back. Maybe there's something specific.

7 BY MR. ADAMS:

8 Q Let me cross you on your answer, then.

9 Have you seen anything from an expert -- it's  
10 foundational.

11 Have you seen anything from an expert that  
12 models showing that MTBE from Number 4 has, in fact,  
13 gotten into drinking water?

14 MS. O'REILLY: I'm instructing him not to  
15 answer.

16 MR. ADAMS: A foundational question?

17 MS. O'REILLY: It is not a foundational  
18 question.

19 MR. ADAMS: Okay.

20 MS. O'REILLY: I am instructing him not answer.  
21 if you want to ask him if the district itself has  
22 created a model, you can do so and he can answer that.

23 BY MR. ADAMS:

24 Q Has the district created a model?

25 A Yes.

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David Bolin

1 Q When did it create the model?

2 A Actually, I don't know the answer to that.  
3 Long before I joined the district.

4 Q So it was before '05?

5 A Yes.

6 Q And was that created by somebody inside the  
7 district or was it created by an outsider?

8 A By somebody within the district.

9 Q Okay. Who is that?

10 A Tim Sovich.

11 Q Is he still there?

12 A Yes, he is.

13 Q And so did that model conclude that MTBE from  
14 Station No. 4 has gotten into drinking water?

15 MS. O'REILLY: Counsel, you're misunderstanding  
16 Mr. Bolin's answer. The model is a groundwater flow  
17 model --

18 MR. ADAMS: Okay. I get that.

19 MS. O'REILLY: -- not a transport contaminant  
20 model. Has nothing to do with tracking contamination.

21 BY MR. ADAMS:

22 Q Just let him testify, please. Go ahead.

23 A No.

24 Q I want to turn now to G & M Oil No. 24.

25 Are you familiar with that site?



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1 questions about Site No. 4. I'm going to go through a  
2 series of questions that I asked you this morning, but  
3 this time I want to focus only on Site 24. Okay?

4 A Okay.

5 Q All right. So have you ever informed any  
6 regulatory agency of any releases of MTBE relating to  
7 Number 24?

8 MS. O'REILLY: Asked and answered. Vague and  
9 ambiguous. Assumes facts. Lacks foundation. Go ahead.

10 THE WITNESS: I -- I don't think so. That was  
11 covered in my prior testimony, though.

12 BY MR. ADAMS:

13 Q And to your knowledge, has the Orange County  
14 Water District informed any agents, agent, governmental  
15 agencies about releases relating to Number 24?

16 MS. O'REILLY: And I'm going to object to the  
17 extent it's been asked and answered. Assumes fact.  
18 Lacks foundation. Calls for speculation. Go ahead.

19 THE WITNESS: My answer is the same.

20 BY MR. ADAMS:

21 Q That you don't think so, but it was covered  
22 before?

23 A Yes.

24 Q And now suspected releases; you haven't  
25 notified any government agencies about any suspected

David Bolin

1 releases from 24 of MTBE, correct?

2 MS. O'REILLY: Incomplete hypothetical.

3 Assumes facts. Lacks foundation.

4 THE WITNESS: I don't recall having a specific  
5 conversation about G & M 24 with the regulators.

6 BY MR. ADAMS:

7 Q And likewise, you're not aware of any Orange  
8 County Water District people other than yourself that  
9 has communicated any suspected releases of MTBE to any  
10 governmental agencies, correct?

11 MS. O'REILLY: Same objections.

12 THE WITNESS: That's correct.

13 BY MR. ADAMS:

14 Q And there are not any drinking water wells that  
15 have been contaminated with MTBE or TBA relating to  
16 Number 24, correct?

17 MS. O'REILLY: I'm going to object. It calls  
18 for an expert opinion. Exceeds the scope of the  
19 deposition. Lacks foundation. Assumes facts.  
20 Incomplete hypothetical. Vague. Ambiguous. Overbroad.

21 THE WITNESS: I don't know. All I can say is  
22 the wells that were designated for this plume have not  
23 had detections of MTBE or TBA that I'm aware of.

24 BY MR. ADAMS:

25 Q I know we talked about it this morning, and I

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1 think you might have covered it with all of them, but  
2 you're not aware of any complaints or odors on any  
3 drinking water from MTBE; is that right?

4 MS. O'REILLY: Exceeds the scope of the  
5 deposition. Exceeds the scope of permissible discovery  
6 in this case, which is limited to the Bellwether  
7 stations. Calls for expert opinion. Lacks foundation.  
8 Assumes facts.

9 MR. ADAMS: I withdraw the question. Let me  
10 try again.

11 BY MR. ADAMS:

12 Q With respect to 24, you haven't -- you're not  
13 aware of any complaints of odor or taste relating to  
14 MTBE, correct?

15 MS. O'REILLY: Asked and answered. Calls for  
16 speculation. Exceeds the scope of the notice. Vague  
17 and ambiguous. Go ahead.

18 THE WITNESS: I'm not, but then they -- if --  
19 such complaints would not necessarily have been brought  
20 to my attention. So I can't say that there weren't any.

21 BY MR. ADAMS:

22 Q And are you aware of any drinking water wells  
23 that are being threatened from MTBE that you believe  
24 came from Number 24?

25 MS. O'REILLY: Calls for expert opinion.

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1 Exceeds the scope of the notice. Lacks foundation.  
2 Assumes facts. Calls for speculation. Vague.  
3 Ambiguous. Overbroad. Asked and answered.

4 THE WITNESS: To be able to say there is or is  
5 not requires expertise that I don't have and that I've  
6 only engaged in so far as I'm working with district's  
7 experts. But I don't have any actual knowledge of that  
8 myself.

9 MR. ADAMS: As I understand it, Counsel, you're  
10 going to instruct him not to answer questions on what  
11 the consultants have told him regarding --

12 MS. O'REILLY: Consultants and experts, that's  
13 correct.

14 BY MR. ADAMS:

15 Q Now, focusing on Number 24, you haven't  
16 communicated with any well owners concerning your  
17 knowledge of contamination in the area, correct?

18 MS. O'REILLY: Assumes facts. Lacks  
19 foundation. Incomplete. Go ahead.

20 THE WITNESS: I have not, but the district has.

21 BY MR. ADAMS:

22 Q And in what way has the district communicated  
23 that?

24 A The district has a -- what they call a pumpers  
25 meeting or producers meeting. And periodically they

David Bolin

1           you haven't communicated that to consumers with respect  
2           to Number 24?

3           MS. O'REILLY: Vague. Ambiguous. Misstates  
4           testimony. Go ahead.

5           THE WITNESS: I didn't say I don't know why. I  
6           said I don't have a reason.

7           BY MR. ADAMS:

8           Q     Okay. And that applies to Number 24 also,  
9           right?

10          A     Yes.

11          Q     With respect to Plume No. 8, other than gas  
12          stations, are you aware of any other possible sources of  
13          MTBE contamination?

14          MS. O'REILLY: Exceeds the scope of the notice.  
15          Calls for expert opinion. Vague. Ambiguous.  
16          Overbroad. Assumes facts. Lacks foundation.  
17          Incomplete hypothetical.

18          THE WITNESS: Your question's very -- very  
19          broad. It sounds like you're asking me, are there any  
20          other possible sources of MTBE besides gas stations?

21          BY MR. ADAMS:

22          Q     Relating to Plume No. 8, yes.

23          MS. O'REILLY: Same objections.

24          THE WITNESS: There very well might be other  
25          maintenance shops and manufacturing facilities that have

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1 gasoline that contained MTBE. But I can't name them  
2 specifically. I don't know about them specifically.

3 BY MR. ADAMS:

4 Q And with respect to Number 24, you haven't seen  
5 any conclusion or determination by any regulatory agency  
6 that MTBE has escaped remediation from Number 24, right?

7 MS. O'REILLY: Can I have the question read  
8 back again?

9 MADAM COURT REPORTER: "QUESTION: And  
10 with respect to Number 24, you haven't seen  
11 any conclusion or determination by any  
12 regulatory agency that MTBE has escaped  
13 remediation from Number 24, right?"

14 MS. O'REILLY: Lacks foundation. Assumes  
15 facts. Calls for a memory test. Vague. Ambiguous.  
16 Overbroad.

17 THE WITNESS: As I sit here, I can't recall  
18 anything that I can remember, but it doesn't mean there  
19 isn't something that exists or that I haven't read it.

20 BY MR. ADAMS:

21 Q But that would have been significant to you,  
22 right?

23 MS. O'REILLY: Objection. Misstates testimony.  
24 Go ahead.

25 THE WITNESS: I don't know what you mean by

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David Bolin

1 significant.

2 BY MR. ADAMS:

3 Q In other words, meaningful, I think, is the way  
4 you usually phrase it.

5 A You read my testimony.

6 Q Twenty-one days worth.

7 A Yes. There's more days than that, but, um,  
8 yes. That would be important enough to act on it.

9 Q Have you personally concluded that MTBE has  
10 escaped remediation from 24?

11 MS. O'REILLY: Vague. Ambiguous. Overbroad.  
12 Potentially calls for expert opinion. Go ahead.

13 THE WITNESS: Let me check my notes, if you  
14 would, please. I believe that MTBE released from this  
15 site has not been remediated by any of the remedial  
16 efforts at this site.

17 Therefore, all the actions taken by G & M at  
18 this site to remediate the groundwater contamination has  
19 not captured or contained all the contamination released  
20 from the site.

21 BY MR. ADAMS:

22 Q And do you know how much mass has escaped  
23 remediation?

24 A No.

25 Q Do you know where it's heading?

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**David Bolin**

1       determined what that acceptable limit is, that's beyond  
2       my expertise. We have experts looking at that.

3               But if you're asking me as a person, as an  
4       individual that drinks water from this basin, my answer  
5       would be none. No MTBE in my water.

6       BY MR. ADAMS:

7               Q     I'll ask you personally and then with respect  
8       to the district. So as to you personally, have you  
9       determined whether there needs to be any additional  
10      remediation for Number 24?

11              MS. O'REILLY: And I'm going to object to the  
12      extent it exceeds the scope of this notice. Mr. Bolin's  
13      being produced as an employee of Orange County Water  
14      District, not in his individual capacity as citizen or  
15      resident of Orange County.

16              And he's being produced as the PMQ. And you're  
17      asking him a question that relates to the litigation.  
18      And also it is vague, ambiguous, overbroad. Calls for  
19      an expert opinion. Lacks foundation. Go ahead.

20              THE WITNESS: Whether additional remediation is  
21      necessary and appropriate is still an answer that our  
22      experts are dealing with. That's, again, beyond my  
23      expertise, as I've been offered up as the PMQ.

24              However, if you're asking me personally, my  
25      answer is yes, I think additional remediation is



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1 plumes move as slugs and the mass doesn't necessarily  
2 spread. Sometimes the migration paths are very, very  
3 narrow and elongated. And you can see a mass traveling  
4 into a drinking water supply in its entirety.

5 So there might be more water involved, but it's  
6 the same amount of mass that's been released.

7 BY MR. ADAMS:

8 Q Do you know whether there was a closure letter  
9 on this site?

10 A I don't recall. I don't think so, but I don't  
11 recall. Can you give me just a minute? I think I can  
12 answer the question.

13 I don't think a closure letter's been provided  
14 for this site.

15 Q Do you have any complaints about the activities  
16 over the oversight agency for this site?

17 A No.

18 MS. O'REILLY: I'm going to object. Exceeds  
19 the scope of the deposition. Vague and ambiguous. Go  
20 ahead.

21 THE WITNESS: No, I have not complained about  
22 the oversight of the site.

23 BY MR. ADAMS:

24 Q And do you know whether the district has?  
25 When you say "I", I assume you're talking about

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David Bolin

1           you. Do you know when anybody else in the district has?

2           A. In this case --

3           MS. O'REILLY: Same objections. Go ahead.

4           THE WITNESS: In this case I'm including the  
5           district.

6           BY MR. ADAMS:

7           Q I was going to ask you about Hargus. And I'm  
8           mindful of what counsel said about Hargus this morning.  
9           But as far as what's been done now, as I understand it,  
10          we talked about somewhere between a fourth and --  
11          25 percent to 30 percent of the work has been done  
12          already.

13          Would your answers for Site No. 24 be any  
14          different than the things that we talked about this  
15          morning with respect to Site No. 4?

16          MS. O'REILLY: I'm going to allow a limited  
17          response. You can respond just very limited to the  
18          scope of the question with respect to work done for  
19          G & M No. 24 only.

20          THE WITNESS: Actually, this is different. You  
21          brought something to mind that I didn't talk about  
22          before.

23          We have more than one contract with Hargus. We  
24          had a contract to evaluate sites, write summary reports,  
25          and then we have another contract for conducting an

David Bolin

1 asked and answered. To the extent that's been  
2 disclosed.

3 THE WITNESS: No, I can't.

4 BY MR. ADAMS:

5 Q And was the \$452,000 contract only for Sites 4  
6 and 24?

7 A No.

8 MS. O'REILLY: Asked and answered.

9 THE WITNESS: No. It included, um, attention  
10 on -- I believe it was about 40 sites.

11 BY MR. ADAMS:

12 Q Okay. So let me ask you this: In round  
13 numbers, the contract that we talked about this morning  
14 was \$3 million. In round numbers, the contract you're  
15 talking about now is roughly 500,000. Okay. So let's  
16 just call it 3.5 million.

17 Is that 3.5 million equally applicable to all  
18 the sites or can it be delineated on a per site basis?

19 MS. O'REILLY: Asked and answered extensively  
20 in his prior deposition. Vague. Ambiguous. Overbroad.  
21 Calls for speculation.

22 THE WITNESS: I want to clarify. The first  
23 contract, 400 -- \$500,000. I call it 450 -- that  
24 applied to 40 sites. The contract for 2.9 million  
25 applies to 10 sites.

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David Bolin

1           So it's not accurate or appropriate to combine  
2           the two and then just divide. You can't do that. I  
3           cannot distinguish how much money was spent on any  
4           particular site. The invoices we received from Hargus  
5           did not break out the various sites.

6           BY MR. ADAMS:

7           Q     And so I think you referred to it as the first  
8           contract, but the roughly \$500,000 contract, that has  
9           all been spent, right?

10          A     Yes.

11          Q     And all of the work that was associated with  
12          that contract has been done?

13          A     That's correct.

14          Q     Other than that, the answers regarding costs  
15          and time and timelines for Site No. 24 are the same as  
16          for Site No. 4 with respect to Hargus?

17          A     The time and timelines. I'm not sure what  
18          you're asking me.

19          Q     Well, they have a work plan, they gave you the  
20          work plan, we went over the contract this morning.

21          A     Oh.

22          Q     For the 2. -- for the \$3 million contract, as  
23          it relates to Hargus, is the same for Site 24 as it was  
24          for Site 4?

25          A     Uh.--

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David Bolin

1 STATE OF CALIFORNIA )  
2 ) SS  
3 COUNTY OF ORANGE )  
4

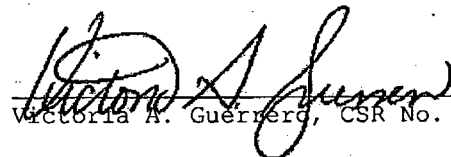
5 I, VICTORIA A. GUERRERO, a Certified Shorthand  
6 Reporter do hereby certify:

7 That prior to being examined, the witness in  
8 the foregoing proceedings was, by me, duly sworn to  
9 testify to the truth, the whole truth, and nothing but  
10 the truth;

11 that said proceedings were taken before me at  
12 the time and place therein set forth and were taken down  
13 by me in shorthand and thereafter transcribed into  
14 typewriting under my direction and supervision;

15 I further certify that I am neither counsel  
16 for, nor related to, and party to said proceedings, not  
17 in any way interested in the outcome thereof.

18 Dated: Thursday, March 10, 2011  
19

20  
21   
22 Victoria A. Guerrero, CSR No. 8370  
23  
24  
25



# **EXHIBIT 44**

Confidential - Per 2004 MDL 1358 Order

Page 4367

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Methyl Tertiary Butyl: Master File No. 1:00-1898  
Ether ("MTBE") : MDL NO. 1358 (SAS)  
Products Liability : M21-88  
Litigation :

This Document Relates to:  
Orange County Water District  
v. Unocal Corporation, et al.,  
S.D.N.Y. No. 04 Civ. 4968 (SAS)

CONFIDENTIAL  
(Per 2004 MDL 1358 Order)

-----  
Wednesday, December 3, 2008  
-----

Videotaped Deposition of DAVID P. BOLIN,  
Volume 19, OCWD'S 30(b)(6) DESIGNEE re Focus Plume  
#1, held in the law offices of Latham & Watkins,  
650 Town Center Drive, Suite 2000, Costa Mesa,  
California, beginning at 9:09 a.m., before Sandra  
Bunch VanderPol, RPR, RMR, CRR, CSR #3032.

GOLKOW TECHNOLOGIES, INC.  
877.370.3377 ph | 917.591.5672 fax  
deps@golkow.com



## Confidential - Per 2004 MDL 1358 Order

<p style="text-align: right;">Page 4400</p> <p>1 THE WITNESS: The District has not tested  2 any of these wells to determine whether MTBE is, in  3 fact, migrating down into the wells. So we don't  4 have that data. And well testing is yet to be  5 completed on a variety of wells along those lines.  6 Right now we don't have any specific data.  7 BY MR. KATZ:  8 Q. With regard to the production wells  9 identified on Exhibit 306 --  10 A. Yes.  11 Q. -- have there been any taste and odor  12 complaints with regard to any of those wells that  13 have been attributed to MTBE or TBA?  14 MR. SAWYER: Objection. Vague. Ambiguous.  15 Overly broad. Compound.  16 THE WITNESS: I don't know.  17 MR. KATZ: I am going to hand to the court  18 reporter what I believe will be marked Exhibit 309,  19 which is a two-page document entitled, "76 Station  20 No. 5792," Bates No. OCWD-MTBE-001-268736 through  21 737.  22 (Exhibit No. 309 was marked.)  23 MR. SAWYER: Are these the notes? Okay. I  24 have got my copy here.  25 What exhibit number are we marking it as?</p>	<p style="text-align: right;">Page 4402</p> <p>1 became Exhibit 309?  2 MR. SAWYER: I will just object to the use  3 of the term "start preparing" as vague and ambiguous.  4 THE WITNESS: Well, it depends. I don't --  5 I think the first entry in my notes -- in these notes  6 would have been Monday. But the information gleaned  7 to prepare the notes I obtained long before that.  8 BY MR. KATZ:  9 Q. Looking at the middle, at least on my  10 version what is the middle of the page, the row that  11 begins, "Off-site wells."  12 A. Huh-huh.  13 Q. I will just read the line. Some  14 folks don't have a copy of the exhibit. "Off-site  15 wells, only one location, MW-7S, MW-7I and MW-7D,  16 about 200 feet south/southwest of site, not optimal  17 location."  18 Do you see that?  19 A. Yes, I do.  20 Q. And you wrote those -- that line?  21 These are your words?  22 A. Yes, those are my words.  23 Q. What did you mean by "not optimal  24 location"?  25 A. The wells -- it's essentially one</p>
<p style="text-align: right;">Page 4401</p> <p>1 THE WITNESS: 309.  2 MR. SAWYER: Thank you very much.  3 BY MR. KATZ:  4 Q. Mr. Bolin, have you reviewed  5 Exhibit 309?  6 A. Yes, I have.  7 Q. What is it?  8 A. These are summary notes that I had  9 prepared to help answer questions today.  10 Q. When did you start preparing  11 Exhibit 309?  12 A. Probably -- well, the information  13 contained in here I began learning about when I first  14 was aware of the station. I don't recall exactly  15 when that was. Probably some time in 2005.  16 Q. My question was specifically with  17 regard to when did you first prepare the document  18 that became Exhibit 309?  19 A. I finished preparing it on Sunday.  20 Now, I can't recall. It might have been yesterday.  21 No, no, not yesterday. I am sorry. It would have  22 been Monday. Monday.  23 Q. Monday, December 1st?  24 A. The day before yesterday.  25 Q. And when did you start preparing what</p>	<p style="text-align: right;">Page 4403</p> <p>1 sample location, MW-7. There are three wells  2 installed at that location, 7S, 7I and 7D. They  3 designated a shallow zone, an intermediate zone and a  4 deep zone. But they are all within the -- the  5 semi-perched zone.  6 The 7D was 45 to 49 feet below ground  7 surface. 7S and 7I are above that, screened above  8 that. And this -- they are not in the optimal  9 location for an off-site well because the flow  10 direction has been predominantly in a southwesterly  11 direction, and these wells are more south of the  12 site.  13 So I made note here that if there was going  14 to be any off-site investigation trying to delineate  15 the lateral extent of contamination, these are not  16 the best location to do that. These are more  17 cross-gradient than downgradient.  18 Q. And that if you were going to do that  19 investigation, would a better location for the well  20 have been in a -- west of the site as opposed to  21 south of the site?  22 A. Well, if -- first of all, they only  23 sampled one location. You can't delineate a plume  24 with just one well. And it was the only effort  25 that's been made to drill off site for contamination</p>

10 (Pages 4400 to 4403)



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REPORTER'S CERTIFICATE

I certify that the witness in the foregoing deposition.

DAVID BOLIN

was by me duly sworn to testify in the within-entitled cause; that said deposition was taken at the time and place therein named; pages 4368 through 4588 of the testimony of said witness were reported by me, a duly Certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and said testimony was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said deposition, nor in any way interested in the outcome of the cause named in said deposition.

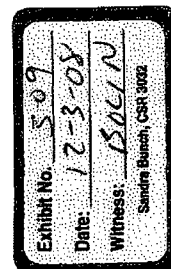
IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of December, 2008.

-----  
SANDRA BUNCH VANDER POL, RMR, CRR  
Certified Shorthand Reporter  
Certificate No. 3032

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Golkow Technologies, Inc. - 1.877.370.DEPS

6dc03def-2da7-4af4-9cd7-d44e632050df



76 Station #5792 4002 Ball Road, Cypress, CA	Unknown how many Unauthorized Release Reports were prepared. However, fuel leaks identified in literature and Geotracker in at least 1987; GW remediation has been limited. MTBE migrated off site, there has been no groundwater capture, site remains unremediated.
Regulating Agency cited multiple deficiencies, made multiple requests for additional investigation and remediation.	
MTBE 1st tested in gw: 5/11/98 in B-2	
MTBE 1st detected in groundwater: 5/11/98 in B-2 - 19,000 ug/L	
Max MTBE detected in a gw monitoring well: 5/17/99 in B-2 - 69,000 ug/L	
TBA 1st tested in gw: 8/2/00 in well B-2 (RDL 30,000 ug/L; detected 9 mo later when RDL lowered, max TBA in well)	
TBA 1st detected in gw: 6/8/01 in well B-1 - 4,400 ug/L - NW site margin well, 1st time tested.	
Max TBA detected in a gw monitoring well: 6/24/02 in well B-2 - 7,800 ug/L	
also max ETBE and TAME.	
3 saturated zones are identified (URS reports):	
[upper] semi-perched gw zone (MW-7s) - ~5 to 20 ft bgs.	
[intermediate] semi-perched gw zone (MW-7i) - ~33 to 38 ft bgs.	
[deep] semi-perched gw zone (MW-7d) - ~45 to >49 ft bgs, max depth investigated (Wayne Perry).	
shallow gw zone approximated top ~60 ft bgs (OCWD).	
semi-perched gw flow direction is WNW to SSW, predominantly SW (TRC).	
shallow gw flow direction is estimated to be westerly (OCWD).	
Off Site wells - only one location: MW-7s, MW-7i, & MW-7d; ~200 feet SSW of site, NOT OPTIMAL LOCATION.	
MW-7s - MTBE 1st tested 7/27/01 - occasional detection <10 ug/L; no TBA detection at or above 50 ug/L.	
MW-7i - MTBE 1st tested 7/27/01 - occasional detection <10 ug/L; occasional TBA detection up to 47 ug/L.	
MW-7d - MTBE 1st tested 7/27/01 - occasional detection <10 ug/L; occasional TBA detection up to 97 ug/L.	
DOWNGRADIENT wells - shallow gw flow direction WNW to SSW - site margin wells B-6 (West) and MW-6 (SW):	
MTBE detected in both farthest downgrad directions 1st time tested, still present.	
TBA occasionally detected in both farthest downgrad directions.	
B-6 - MTBE 1st tested & 1st detected 3/24/99 (1,600 ug/L), still pres; TBA occasionally detected up to 3,300 ug/L.	
MW-6 - MTBE 1st tested & 1st detected 1/27/00 (69 ug/L), still pres; TBA occasionally detected up to 41 ug/L.	
Remediation: DPE briefly initiated 2002 - GW NOT CAPTURED, CONTAMINATION NOT CONTAINED.	
Aug-97 - USTs removed & replaced, soil contamination detected; soil excavated; OCHCA requires Corr. Action.	
Sep-97 - Unocal consultant requested site closure following UST removal w/out testing gw; OCHCA rejected request.	
Apr-98 - monitoring wells B-1 to B-4 installed in UST area, gw contamination detected.	
Nov-99 - downgrad (SW) site margin well MW-6 installed (MTBE detected 1st time tested in Jan-00)	
Oct-00 - overpurgings in UST area wells - six 8-hour purging events.	
Oct-00 - Unocal consultant states soil remediation is not warranted; OCHCA rejects statement.	
May-01 - additional investigation in UST area (borings B-7, B-8, and B-9).	
Jul-01 - installed 1st & only off-site wells (MW-7s, 7i, & 7d) ~200 feet SSW of site - cross-gradient.	
Jan & Feb-02 - DPE tests for total of 24 hours - almost 5 years after contamination discovered.	
Aug-02 - installed wells MW-8 (E site margin - upgrad) and MW-9 (S site margin - cross-grad).	
Jul-03 - ozone injection points installed (CS-1 to CS-11) - remain unused for >2 years.	
Dec-05 - began ozone injection - >7 years after gw contamination confirmed, operated only 50% of time.	
MTBE and TBA groundwater plumes have migrated off site SW (1/21/08 TRC - Quarterly Monitoring Report, October Through December 2007, 76 Station 5792, 4002 Ball Road, Cypress, California, OCHCA Case #: 97UT28).	

OCWD-MTBE-001-268736

<b>76 Station #5792</b>
4002 Ball Road, Cypress, CA
Historic MTBE and TBA gw plumes have not been delineated laterally.
Recent MTBE and TBA gw plumes have not been delineated laterally.
MTBE and TBA gw plumes have not been delineated vertically.
Groundwater conduits (potential migration paths from shallow saturated zones to deeper saturated zones):
Nearest well in Shallow Aquifer: W-5516 - domestic well ~800 ft N of site - cross-gradient semi-perched zone:
Drilled to 198 ft bgs (Shallow Aquifer).
Screened: - 170 to 178 ft bgs.
Sanitary seal - unknown (probably not - completed 1954).
pump rate - unknown.
Top of Shallow zone - ~68 ft bgs.
Bottom of Shallow zone - ~325 ft bgs.
Top of Principal Aquifer - ~354 ft bgs.
Nearest well in Shallow Aquifer WEST downgradient: W-14850 - ag/lr well ~1,130 ft W of site:
Drilled to 190 ft bgs (Shallow Aquifer).
Screened: - 150 to 161 and 182 to 189 ft bgs.
Sanitary seal - unknown (probably not).
pump rate - unknown.
Top of Shallow zone - ~61 ft bgs.
Bottom of Shallow zone - ~304 ft bgs.
Top of Principal Aquifer - ~335 ft bgs.
Nearest drinking water prod well: SCWC-LABL2 - (Principal Aquifer) ~650 ft SSW of site - downgradient:
Drilled to 708 ft bgs (Principal Aquifer).
Screened: 460 to 650 ft bgs.
Sanitary seal - YES.
pump rate -
Top of Shallow zone - ~58 ft bgs.
Bottom of Shallow zone - ~311 ft bgs.
Top of Principal Aquifer - ~340 ft bgs.

OCWD-MTBE-001-268737

# **EXHIBIT 45**

Confidential - Per 2004 MDL 1358 Order

Page 803

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Methyl Tertiary Butyl: Master File No. 1:00-1898  
Ether ("MTBE") : MDL NO. 1358 (SAS)  
Products Liability : M21-88  
Litigation :

This Document Relates to:  
Orange County Water District  
v. Unocal Corporation, et al.,  
S.D.N.Y. No. 04 Civ. 4968 (SAS)

CONFIDENTIAL  
(Per 2004 MDL 1358 Order)

-----  
August 20, 2008  
-----

Videotaped Deposition of DAVID P. BOLIN,  
Volume 4, OCWD'S 30(b)(6) DESIGNEE, held in the law  
offices of Latham & Watkins, 650 Towne Center Drive,  
Suite 2000, Costa Mesa, beginning at 2:29 p.m., before  
Sandra Bunch VanderPol, RPR, RMR, CRR, CSR #3032.

GOLKOW TECHNOLOGIES, INC.

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deps@golkow.com



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1 notice in November 2005, according to the e-mail  
 2 messages that were sent.  
 3 I'm looking at Exhibit 42, for example.  
 4 Q. So if you look at Exhibit 45, this is  
 5 January of 2008. Scope of work includes -- it looks  
 6 like it's basically the completion of what had been  
 7 started before; is that a fair, gross generalization?  
 8 A. The completion of some of what --  
 9 some of the work that had been started before. Much  
 10 of the work had been completed, but there were -- but  
 11 not everything was completed.  
 12 Q. Right. So you wanted to get it  
 13 finished so you have a usable final work product from  
 14 Komex, right?  
 15 A. We wanted Komex, that is the District  
 16 wanted Komex to complete the work that they were --  
 17 agreed to do.  
 18 Q. And has Komex now completed the work  
 19 contemplated by the 2005 agreement and the scope of  
 20 work described in Exhibit 45?  
 21 A. They have substantially completed the  
 22 work that was originally agreed to in the first phase  
 23 of work.  
 24 Q. Is there anything --  
 25 MR. MILLER: Excuse me. Somebody needs to

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1 mute. We are hearing background conversation.  
 2 BY MR. ANDERSON:  
 3 Q. Is there anything that you can think  
 4 of that Komex has not completed, that it has agreed  
 5 to complete as part of its scopes of work in '05  
 6 through '08?  
 7 A. They have substantially completed the  
 8 work that we have asked them to do. There were  
 9 things that they were working on as part of their  
 10 analyses that I don't believe they are continuing to  
 11 do. To my knowledge, they have completed everything  
 12 that we are asking them to do.  
 13 MR. ANDERSON: Exhibit 46 is a Professional  
 14 Services Agreement No. 0454, between WorleyParsons  
 15 Komex and Orange County Water District.  
 16 (Exhibit No. 46 was marked.)  
 17 BY MR. ANDERSON:  
 18 Q. Is this an agreement between Orange  
 19 County Water District and WorleyParsons Komex for  
 20 work in connection with the MTBE litigation project?  
 21 A. I'm still looking over it.  
 22 Q. I'm not going to get real detailed,  
 23 but look to the extent you want to.  
 24 A. Yes, I believe that it is.  
 25 Q. Okay. Is this the most recent

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1 contract between the District and WorleyParsons  
 2 Komex?  
 3 A. I believe that it is.  
 4 Q. Do you anticipate any further  
 5 agreements with WorleyParsons Komex in connection  
 6 with the MTBE litigation project?  
 7 A. I don't know whether we will have any  
 8 additional agreements with Komex regarding the MTBE  
 9 project.  
 10 Q. You don't have any in the works right  
 11 now, do you?  
 12 A. There is nothing that we are  
 13 preparing at this moment.  
 14 Q. The term of this agreement set forth  
 15 on page 2, Section 5, was to end on June 30, 2008; do  
 16 you see that?  
 17 A. Yes.  
 18 Q. And do you know if the work was  
 19 completed under the agreement?  
 20 A. I believe that it was.  
 21 Q. Does this refresh your recollection  
 22 that -- I'm looking at Section 7. This talks about  
 23 returning documents at the end of the project.  
 24 Is it still your recollection that Komex has  
 25 not returned the documents described in this

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1 agreement back to Orange County Water District?  
 2 A. We still have an open agreement with  
 3 Komex. I believe they substantially completed the  
 4 work that they were asked to do, but I don't know  
 5 whether all of their materials have been returned to  
 6 Orange County Water District.  
 7 MR. ANDERSON: Okay. Why don't we take a  
 8 short break, and we will change gears when we get  
 9 back.  
 10 THE VIDEOGRAPHER: This is the end of  
 11 tape 2. At 4:00 p.m. we are off the record.  
 12 (Recess taken.)  
 13 THE VIDEOGRAPHER: Correction, that was the  
 14 end of tape 1. This is the beginning of tape 2. At  
 15 4:13 p.m. we are back on the record.  
 16 (Exhibit No. 47 was marked.)  
 17 BY MR. ANDERSON:  
 18 Q. Mr. Bolin, I handed you Exhibit 47,  
 19 which is a lengthy spreadsheet produced to us by your  
 20 counsel the night before last relating to Unocal  
 21 Station 5226. Do you see that?  
 22 A. Yes.  
 23 Q. Do you have any idea why it was  
 24 produced to us on August 18th as opposed to ten days  
 25 before your deposition started?

18 (Pages 868 to 871)



## Confidential - Per 2004 MDL 1358 Order

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1 A. Because that's when I finished it.  
 2 Q. You finished this document on  
 3 August 18th. And why were you working on this  
 4 document up to and including August 18th?  
 5 A. The first two days in my deposition I  
 6 brought some binders with various notes and documents  
 7 to help me answer questions that I might be asked and  
 8 left those documents behind to have copied.  
 9 And when I was able to re-access those  
 10 documents, after those two days of deposition, I know  
 11 that a number of the tabs that I had put on there had  
 12 been moved. A couple of them were not there.  
 13 And so I went back and reattached those  
 14 tabs, went through those documents again and decided  
 15 that it would help me further to answer questions if  
 16 I could have some summary notes for each of those  
 17 binders instead of trying to flip through the binders  
 18 to find answers to questions that I might be asked.  
 19 Q. Now, let's take a look at the first  
 20 page of this exhibit. On line item -- starting with  
 21 line item 35, "Remediation." These are all your  
 22 notes?  
 23 A. These are my notes.  
 24 Q. These are typed in? They are not cut  
 25 and pasted from something else?

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1 A. That is correct.  
 2 Q. You say, "Remediation: First  
 3 groundwater capture began in March of '02," right?  
 4 A. And the squiggly mark means  
 5 approximately.  
 6 Q. Approximately?  
 7 A. Approximately in March of '02.  
 8 Q. So this is something you got -- you  
 9 were pulling this out of some documents you were  
 10 looking at, right?  
 11 A. That's correct.  
 12 Q. And what were the documents you were  
 13 looking at?  
 14 A. These are the documents that are in  
 15 the binders for which you have copies.  
 16 Q. And the source of the documents in  
 17 the binder would include the quarterly reports  
 18 provided by the ConocoPhillips consultant?  
 19 A. Yes.  
 20 Q. And the document that said that the  
 21 capture began in March of '02, was that something  
 22 dated back in 2002, or something dated later than  
 23 that?  
 24 A. I would have to look through the  
 25 documents to determine which document, at what date,

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1 mentioned when groundwater was being removed from the  
 2 site.  
 3 Q. You note that the responsible  
 4 party -- that's RP, right?  
 5 A. That is correct.  
 6 Q. "Pump groundwater from monitoring  
 7 Well 2 in April of '99 and September of '00." Right?  
 8 A. Yes.  
 9 Q. And then you have the statement,  
 10 "Concluded that vacuum extraction was not feasible."  
 11 What does that mean?  
 12 A. That was a statement or an indication  
 13 made by the consultant in a report that said that the  
 14 vacuum extraction was not a feasible remediation  
 15 technology.  
 16 Q. Did you find any indication, as you  
 17 went through all these records as recently as two  
 18 days ago, that Orange County Water District had  
 19 provided any direction or suggestions or criticisms  
 20 to either the responsible party, its consultants, or  
 21 the Orange County Health Care Agency concerning this  
 22 particular project?  
 23 MR. MILLER: Objection. That's compound.  
 24 THE WITNESS: I don't have any documents  
 25 saying -- that discusses communication between Orange

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1 County Water District and anybody else about this --  
 2 this particular site.  
 3 Of course, I'm only knowledgeable about  
 4 activities that might have taken place after I joined  
 5 the District in 2005. Whether such conversations  
 6 were had with any of these particular RPs or  
 7 regulatory agencies about this site or any of the  
 8 sites before I joined the District, I don't know.  
 9 BY MR. ANDERSON:  
 10 Q. You noted that the responsible party  
 11 had conducted soil excavation of 119 tons in 1992,  
 12 1994 and 1995. Right?  
 13 A. I'm trying -- I'm trying to follow  
 14 along. All these notes kind of run together.  
 15 Can you identify which line?  
 16 Q. Oh, I see. No, apparently that's  
 17 something that's missing from your report.  
 18 Were you aware the responsible party had  
 19 excavated 119 tons of soil in those three years? You  
 20 didn't note it in the report. I'm just asking if you  
 21 knew that?  
 22 A. I might have -- I might be aware of  
 23 that. I might have noted that or read that in one of  
 24 the reports.  
 25 Q. Is soil excavation a method of

19 (Pages 872 to 875)

## Confidential - Per 2004 MDL 1358 Order

Page 920

1 BY MR. ANDERSON:  
 2 Q. So you have made that determination  
 3 with respect to Unocal 5226?  
 4 A. Based on my definition, what I just  
 5 said, that's what I believe to be true.  
 6 MR. MILLER: Are you done with your list?  
 7 How long is your list? How many pages?  
 8 MR. ANDERSON: I'm really close.  
 9 MR. MILLER: You keep promising that. But  
 10 it's after 5:00.  
 11 MR. ANDERSON: Just be patient.  
 12 Am I done?  
 13 MR. KATZ: Yes.  
 14 MR. ANDERSON: I'm done for the day.  
 15 MR. MILLER: Thank you.  
 16 MR. ANDERSON: So be back at 8:00.  
 17 MR. MILLER: Perhaps not.  
 18 MR. ANDERSON: Off the record.  
 19 THE VIDEOGRAPHER: This is the end of tape  
 20 two of two and concludes today's deposition of David  
 21 Bolin. At 5:09 p.m. we are off the record.  
 22 (The deposition was concluded on this day at  
 23 5:09 p.m.)  
 24 --o0o--  
 25

Page 921

1 Please be advised I have read the foregoing  
 2 deposition, and I state there are:  
 3 (Check one) \_\_\_\_\_ NO CORRECTIONS  
 4 \_\_\_\_\_ CORRECTIONS PER ATTACHED  
 5  
 6  
 7  
 8 \_\_\_\_\_  
 9 DAVID P. BOLIN  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 922

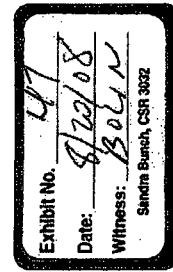
1 DEPONENT'S CHANGES OR CORRECTIONS  
 2 Note: If you are adding to your testimony, print the  
 3 exact words you want to add. If you are deleting from  
 4 your testimony, print the exact words you want to  
 5 delete. Specify with "Add" or "Delete" and sign this  
 6 form.  
 7 DEPOSITION OF: DAVID P. BOLIN, Volume 4  
 8 CASE: MTBE MDL (OCWD)  
 9 DATE OF DEPOSITION: AUGUST 20, 2008  
 10 PAGE LINE CHANGE/ADD/DELETE  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_  
 17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 \_\_\_\_\_  
 22 \_\_\_\_\_  
 23 \_\_\_\_\_  
 24 DEPONENT'S SIGNATURE \_\_\_\_\_  
 25 DATE \_\_\_\_\_

Page 923

1 REPORTER'S CERTIFICATE  
 2  
 3 I certify that the witness in the foregoing  
 4 deposition.  
 5 DAVID P. BOLIN  
 6 was by me duly sworn to testify in the within-entitled  
 7 cause; that said deposition was taken at the time and  
 8 place therein named; pages 804 through 923 of the  
 9 testimony of said witness were reported by me, a duly  
 10 Certified Shorthand Reporter of the State of California  
 11 authorized to administer oaths and affirmations, and said  
 12 testimony was thereafter transcribed into typewriting.  
 13 I further certify that I am not of counsel or  
 14 attorney for either or any of the parties to said  
 15 deposition, nor in any way interested in the outcome of  
 16 the cause named in said deposition.  
 17 IN WITNESS WHEREOF, I have hereunto set my hand this  
 18 2nd day of September 2008.  
 19  
 20 \_\_\_\_\_  
 21 SANDRA BUNCH VANDER POL, RMR, CRR  
 22 Certified Shorthand Reporter  
 23 Certificate No. 3032  
 24  
 25

31 (Pages 920 to 923)





OCWD-MTBE-001-192569

A	
1	Unocal #5226
2	6322 Westminster Blvd. Westminster
3	
4	Site had least two reportable fuel leaks in 1984 and 1996; fuel leaks were discovered, identified, and/or detected on 12/8/84 and 9/2/96.
5	
6	
7	Only one UST integrity test was reviewed. That test failed on 5/18/1999.
8	Regulatory Agency has issued more than 12 notifications to RP from 4/14/1992 to 6/8/2006 for inadequate or ineffective investigations or remediation, and missing work plans, reports, or data.
9	
10	
11	MTBE 1st tested in groundwater: 1/8/96 in MW-12.
12	MTBE 1st detected in groundwater: 1/8/96 in MW-12 - 1,100 ug/L.
13	Max MTBE detected in a gw monitoring well: 5/11/98 in MW-2 - 480,000 ug/L.
14	
15	TBA 1st tested in groundwater: 4/11/01 in MW-1.
16	TBA 1st detected in groundwater: 4/11/01 in MW-1 - 21,000 ug/L.
17	Max TBA detected in a gw monitoring well: 10/21/01 in MW-1 - 410,000 ug/L.
18	
19	2 saturated zones are identified:
20	semi-perched gw zone: from -5 to >30 ft bgs (all mont wells screened from 5 to 25 or 30 ft bgs).
21	Alpha Aquifer - -79 to 90 ft bgs.
22	
23	Farthest downgradient well MW-15:
24	1st tested for MTBE on 7/19/01 (at laboratory detection limit of 50 ug/L).
25	1st detected MTBE on 2/1/02 - 43 ug/L.
26	Max MTBE detected 8/16/04 - 5,600 ug/L.
27	1st tested for TBA on 7/19/01 (at laboratory detection limit of 5,000 ug/L).
28	1st detected TBA on 8/16/04 - 890 ug/L.
29	Max TBA detected 8/16/04 - 890 ug/L.
30	
31	Semi-perched groundwater flow direction is SW to SE before Feb-2003, and NW after that (Kornex report).
32	Deeper groundwater flow direction is SW (Kornex report).
33	Vertical groundwater gradient is down.
34	
35	Remediation: 1st groundwater capture began in -Mar-02.
36	RP pumped gw from MW-2 in Apr-99 and Sep-00.
37	RP conducted DPE test - concluded that vacuum extraction was not feasible; recommended P&T.
38	RP initiated gw P&T remediation in Mar-02.
39	10 yrs after gw contamination was detected on site.
40	5 yrs after MTBE was detected on site.
41	1 yr after TBA was detected on site.
42	the same year MTBE was detected off site (MW-15).
43	2 years before TBA was detected off site (MW-15).
44	
45	MTBE and TBA groundwater plumes have migrated off site to the NW (4/23/08 TRC - 76 Station 5226, 6322 Westminster Avenue, Westminster, California, OCHCA Case #84UT021; Quarterly Monitoring Report, January Through March 2008).
46	
47	Historic MTBE and TBA gw plumes have not been delineated laterally.
48	Recent MTBE and TBA gw plumes have not been delineated laterally.
49	MTBE and TBA gw plumes have not been delineated vertically.



A	
51	Groundwater conduits are near by (potential migration paths from shallow saturated zones to deeper saturated zones).
52	Nearest well: W-16927 - domestic well -800 ft S of site.
53	Drilled to 120 ft bgs.
54	Screened - unknown - ft bgs.
55	pump rate - inactive, abandoned
56	Nearest drinking water production well: HB-7 - ~3500 ft SW of site.
57	Drilled to 930 ft bgs.
58	Screened 263 to 551; 591 to 699; 735 to 879 ft bgs.
59	Pump rate - 3500 gpm
60	Top of Shallow zone - ~46 ft bgs.
61	Bottom of Shallow zone - ~159 ft bgs.
62	Top of Principal Aquifer - ~169 ft bgs.
63	
64	Nearest MTBE detection in drinking water production well:
65	HB-7: 0.16 ug/L in 2006 (LIMS).
66	HB-13: 0.17 ug/L in 2005 (LIMS).

OCWD-MTBE-001-192571

# **EXHIBIT 46**



Attorney Work Product  
Privileged and Confidential

KOMEX • H<sub>2</sub>O SCIENCE • INC  
5455 GARDEN GROVE BOULEVARD, SECOND FLOOR  
WESTMINSTER, CA 92683, USA  
TEL.: (714) 379-1157 · FAX.: (714) 379-1160  
EMAIL: info@losangeles.komex.com  
WEB SITE: www.komex.com

ENVIRONMENT AND WATER RESOURCES

May 27, 2005

Orange County Water District  
10500 Ellis Avenue  
P.O. Box 8300  
Fountain Valley, CA 92728-0300  
*Attn.: Roy Herndon*

sent via email to:  
[rherndon@ocwd.com](mailto:rherndon@ocwd.com)

**Re: Proposal for Environmental Consulting Support**  
**OCWD Litigation Related to Methyl tertiary Butyl Ether (MTBE)**

Dear Mr. Herndon:

Komex is pleased to submit this proposal to the Orange County Water District (OCWD) to provide environmental consulting services in support of your litigation related to Methyl tertiary Butyl Ether (MTBE) contamination. This proposal has been prepared by Komex at your request, and in response to our recent discussions about this matter, and a briefing given by Komex to the OCWD Board of Directors on May 18, 2005.

Based upon discussions with your legal counsel, we understand that, as part of the litigation, OCWD needs to identify which aquifer resources and water supply wells are imminently threatened by MTBE and/or other fuel oxygenate contamination. To identify these resources, Komex has met with OCWD staff to develop a multi-phased approach. This proposal addresses the first phase of the approach.

The first phase will attempt to qualitatively identify the likelihood, magnitude and extent of the threat posed by MTBE and other fuel oxygenates. This will be accomplished by reviewing information for the following:

- Select water wells that are believed to be susceptible to contamination
- Sites in the vicinity of these wells believed to be sources of contamination
- Sites in the basin known to local regulators as being significant sources of contamination
- Water wells in the immediate vicinity of these significant sources



**KOMEX**  
USA, CANADA, UK AND WORLDWIDE

OCWD-MTBE-001-186956

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**Task 10: Identify problem source sites**

Komex will meet with regulatory personnel in an attempt to identify those release sites that are known to have significant groundwater contamination problems. At a minimum, we will meet with the following agencies:

- Regional Water Quality Control Board (RWQCB), Santa Ana region
- Orange County Health Care Agency (OCHCA)
- City of Anaheim Utilities Department (AUD)

It is hoped that we will be able to identify between 30 and 40 "problem" sites within the basin upon which we can initially focus our analysis.

**Task 11: Document Scanning**

All documents related to the "problem" source sites and susceptible wells will be scanned and "bates stamped" to allow cataloging, and electronic access and storage of these materials.

**Task 12: Document Profiling**

Komex will develop database fields for scanned documents and profile each document according to the fields. This will allow for standard query searches using field descriptors to identify available documents.

**Task 13: Develop a document management system**

Komex will meet with OCWD staff to perform a "needs assessment" for document and data management, access and retrieval. The database structure will be compatible with, and hopefully based on, OCWDs existing platforms. All scanned and profiled documents would be entered into the database. In addition, databases for source site and water well information will also be developed. All information will be geo-referenced and linked to the existing GIS system. The document database will be accessible to OCWD staff and counsel through a web portal. Once fully populated, the databases will be provided to OCWD to supplement their existing databases.

**Task 14: Source site survey**

Komex will obtain a report of all potential contaminant source sites in the basin listed in Federal and State regulatory databases. This information will be obtained from a regulatory search company such as Vista, Eris or EDR. Komex will also conduct a geographic positioning system (GPS) survey of approximately 40 leaking underground storage tank (LUST) sites, 10 non-

# **EXHIBIT 47**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL  
ETHER ("MtBE")

This Document Relates to:  
ORANGE COUNTY WATER DISTRICT  
v. UNOCAL CORPORATION, et al.,  
Case No. 04CIV.4968 (SAS)

Videotape Deposition of  
ROY L. HERNDON

OCWD'S 30(b)(6) DESIGNEE RE PRIMARY JURISDICTION

Volume 2 (Pages 144 - 413)

Tuesday, January 10, 2006

Reported by:

SANDRA M. BUNCH, RMR, CRR, CSR

License No. 3032

Certified Realtime Reporter

Job No. 11894LR





Page 385

1 A. Yes.  
 2 Q. Okay. And you understand that the Orange  
 3 County Health Care Agency has at least the  
 4 procedures, if not the absolute authority, to compel  
 5 the responsible parties to take action to clean up  
 6 the contamination, right?  
 7 A. Yes.  
 8 MR. MILLER: Objection, vague as to whether  
 9 or not you're talking about on site or off site.  
 10 But go ahead.  
 11 THE WITNESS: In general, I understand that  
 12 they have the authority to attempt to compel  
 13 responsible parties to undertake actions.  
 14 Q. BY MR. ANDERSON: Okay. And if they did so  
 15 with respect to the 76 site, to compel my client to  
 16 clean up contamination that they were responsible for  
 17 that has migrated off site, wouldn't that take care  
 18 of the district's concern?  
 19 A. In that specific case, if they took it all  
 20 the way to that level and the responsible party  
 21 implemented all of those actions, then that would  
 22 take care of that.  
 23 Q. Okay. And I just want to clarify.  
 24 You haven't asked them to do that, have you?  
 25 A. Not on that particular site.

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1 Q. And you haven't asked -- you haven't asked  
 2 Conoco-Phillips, formerly Tosco, formerly Unocal, to  
 3 do that either, have you?  
 4 MR. MILLER: Argumentative.  
 5 Go ahead.  
 6 THE WITNESS: I don't recall having  
 7 correspondences with those entities on that  
 8 particular site. But I have had that correspondence  
 9 or that type of exchange on other sites.  
 10 Q. BY MR. ANDERSON: I'm not going to ask you  
 11 about those other sites, because I think I would draw  
 12 an objection.  
 13 A. I understand.  
 14 Q. Now, other than plume delineation and  
 15 off-site remediation, is there anything else about  
 16 the 76 site where the district is seeking something  
 17 in this litigation more than you perceive is being  
 18 sought by the Orange County Health Care Agency?  
 19 A. I guess it would be a matter of having  
 20 sufficient monitoring information to ensure that the  
 21 public water supply is being protected. And I'm not  
 22 sure if the facilities are in place to do that, given  
 23 the potential unknown extent of contamination.  
 24 But assuming that an adequate coverage of  
 25 data can establish the extent of a plume, then -- and

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1 that that plume has some kind of containment system,  
 2 so it's not moving and getting bigger, encapsulating  
 3 that issue on that one site, other than district cost  
 4 to oversee that activity and satisfy itself that,  
 5 indeed, those actions have been implemented, I would  
 6 say that, in general, that would cover the majority  
 7 of what costs or damages or expenses that the  
 8 district could incur with that given site.  
 9 Q. Understood. And with respect to -- you just  
 10 made -- had a lengthy description. But you're  
 11 talking about monitoring data and things --  
 12 A. Analysis.  
 13 Q. Analysis. All that?  
 14 A. Yes.  
 15 Q. Okay. Have you discussed any of that with  
 16 Orange County Health Care Agency with respect to the  
 17 76 site?  
 18 A. Not that I know of.  
 19 Q. And have you discussed any of that or raised  
 20 any of those concerns with Tosco, Conoco-Phillips or  
 21 Unocal historically as to that site?  
 22 A. Not that I'm aware of.  
 23 Q. Now, even in this deposition you have  
 24 mentioned a time when the district raised concerns to  
 25 a regulatory authority about what was being done.

Page 388

1 You mentioned the Yorba Linda, which you called the  
 2 Concerto site, right?  
 3 A. Yes.  
 4 Q. So you have had experience where you've gone  
 5 to regulatory agencies, asked that more be done, and  
 6 had your wish granted, right?  
 7 A. If you're using that as an example of where  
 8 our wish was granted, I wouldn't agree with that.  
 9 Q. In that example you think your wish was not  
 10 granted?  
 11 A. I can think of an example on that site that  
 12 it was not granted.  
 13 Q. All I can tell you is that your counsel has  
 14 represented to the court that the district is  
 15 satisfied with the result in Southern California  
 16 Water District Concerto wells.  
 17 MR. MILLER: Counsel, you're --  
 18 MR. ANDERSON: I was there.  
 19 MR. MILLER: -- overstating, and you're also  
 20 getting into representations. And you would have to  
 21 make them accurately to do that. So I've got --  
 22 MR. ANDERSON: And I did.  
 23 MR. MILLER: Well, I don't agree that that's  
 24 what was said. And I don't think we ought to go  
 25 there.

62 (Pages 385 to 388)

Page 413	Page 415
<p>1 REPORTER'S CERTIFICATE</p> <p>2</p> <p>3 I certify that the witness in the foregoing</p> <p>4 deposition.</p> <p>5 ROY L. HERNDON,</p> <p>6 was by me duly sworn to testify in the</p> <p>7 within-entitled cause; that said deposition was taken</p> <p>8 at the time and place therein named; that the</p> <p>9 testimony of said witness was reported by me, a duly</p> <p>10 Certified Shorthand Reporter of the State of</p> <p>11 California authorized to administer oaths and</p> <p>12 affirmations, and said testimony was thereafter</p> <p>13 transcribed into typewriting.</p> <p>14 I further certify that I am not of counsel or</p> <p>15 attorney for either or any of the parties to said</p> <p>16 deposition, nor in any way interested in the outcome</p> <p>17 of the cause named in said deposition.</p> <p>18 IN WITNESS WHEREOF, I have hereunto set my</p> <p>19 hand this 19th day of January, 2006.</p> <p>20</p> <p>21</p> <p>22 SANDRA M. BUNCH</p> <p>23 Certified Shorthand Reporter</p> <p>24 Certificate No. 3032</p> <p>25</p>	<p>1 PHILLIPS LEGAL SERVICES</p> <p>2 350 University Avenue, Suite 270</p> <p>3 Sacramento, California 95825</p> <p>4 (916) 927-3600</p> <p>5</p> <p>6</p> <p>7 LATHAM &amp; WATKINS</p> <p>8 JON D. ANDERSON, Esq.</p> <p>9 650 Town Center Drive, Suite 2000</p> <p>10 Costa Mesa, California 92626-1925</p> <p>11 Re: OCWD vs. UNOCAL, ET AL.</p> <p>12 Deposition of: ROY L. HERNDON, Volume 2</p> <p>13 Date Taken: JANUARY 10, 2006</p> <p>14 Dear Mr. Anderson:</p> <p>15 We wish to inform you of the disposition of this</p> <p>16 original transcript. The following procedure is</p> <p>17 being taken by our office:</p> <p>18 The witness has read and signed the</p> <p>19 deposition. (See attached.)</p> <p>20</p> <p>21 The witness has waived signature.</p> <p>22</p> <p>23 The time for reading and signing has</p> <p>24 expired.</p> <p>25 The sealed original deposition is being</p> <p>forwarded to your office.</p> <p>Other:</p> <p>Sincerely,</p> <p>Phillips Legal Services</p> <p>Ref No. 11894LR</p>
<p>Page 414</p> <p>1 PHILLIPS LEGAL SERVICES</p> <p>2 350 University Avenue, Suite 270</p> <p>3 Sacramento, California 95825</p> <p>4 (916) 927-3600</p> <p>5</p> <p>6 ROY L. HERNDON</p> <p>7 c/o OCWD</p> <p>8 P. O. Box 8300</p> <p>9 Fountain Valley, California 92728-8300</p> <p>10</p> <p>11 Re: OCWD VS. UNOCAL, ET AL.</p> <p>12 Date Taken: JANUARY 10, 2006 (Volume 2)</p> <p>13 Dear Mr. Herndon:</p> <p>14 Your deposition is now ready for you to read, correct</p> <p>15 and sign. The original will be held in our office</p> <p>16 for 35 days from the date of this letter.</p> <p>17 If you are represented by counsel, you may wish to</p> <p>18 discuss with him/her the reading and signing of your</p> <p>19 deposition. If your attorney has purchased a copy of</p> <p>20 your deposition, you may review that copy. If you</p> <p>21 choose to read your attorney's copy, please fill out,</p> <p>22 sign and submit to our office the DEPONENT'S CHANGE</p> <p>23 SHEET located in the back of your deposition.</p> <p>24 If you choose to read your deposition at our office,</p> <p>25 it will be available between 9:00 a.m. and 4:00 p.m.</p> <p>Please bring this letter as a reference.</p> <p>If you do not wish to read your deposition, please</p> <p>sign here and return within 30 days of the date of</p> <p>this letter.</p> <p>ROY L. HERNDON DATE</p> <p>Sincerely,</p> <p>SANDRA M. BUNCH, CMR, CRR, CSR No. 3032</p> <p>PHILLIPS LEGAL SERVICES</p> <p>Job No. 11894LR</p> <p>cc: ALL COUNSEL APPEARING</p>	

69 (Pages 413 to 415)

PHILLIPS LEGAL SERVICES

Reported by: SANDRA M. BUNCH, RMR, CRR, CSR #3032

916.927.3600

E:mail: realtimecsr@calweb.com

# **EXHIBIT 48**

paprocki deposition transcript.txt  
Paprocki, Lee, Vol. 1 (pp 001-233)

0001

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL  
ETHER ("MtBE")  
This Document Relates to:  
ORANGE COUNTY WATER DISTRICT  
v. UNOCAL CORPORATION, et al.,  
Case No. 04CIV.4968 (SAS)

Videotape Deposition of  
LEE PAPROCKI  
OCWD'S 30(b)(6) DESIGNEE RE PRIMARY JURISDICTION  
Tuesday, January 17, 2006

Reported by:  
SANDRA M. BUNCH, RMR, CRR, CSR  
License No. 3032  
Certified Realtime Reporter  
Job No. 11989LR

page 1

Paprocki, Lee, Vol. 1 (pp 001-233)

APPEARANCES

For the Plaintiffs:

MILLER, AXLINE & SAWYER  
By: TRACEY O'REILLY, Esq.  
1050 Fulton Avenue, Suite 100  
Sacramento, California 95825-4272  
(916) 488-6688

For Defendant ConocoPhillips Company as  
successor-in-interest to Tosco Corporation and  
Phillips Petroleum Corporation:

LATHAM & WATKINS  
By: JON D. ANDERSON, Esq.  
650 Town Center Drive, Suite 2000  
Costa Mesa, California 92626-1925  
(714) 540-1235

For the Defendant EXXON MOBIL:

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
By: JEFFREY PARKER, Esq.  
333 South Hope Street, 48th Floor  
Los Angeles, California 90071-1448  
(213) 620-1780

page 2

Paprocki, Lee, Vol. 1 (pp 001-233)

APPEARANCES (Continued)



paprocki deposition transcript.txt

22 though.  
 23 HB-3A is located approximately 1,350 feet  
 24 west of the site.  
 25 Q. BY MR. ANDERSON: And it was first released

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\_Paprocki, Lee, Vol. 1 (pp 001-233)

1 in 1996, right?  
 2 A. Some time --  
 3 MS. O'REILLY: I am --  
 4 THE WITNESS: I am sorry.  
 5 MR. ANDERSON: Prior to.  
 6 MS. O'REILLY: I am going to object. It  
 7 calls for speculation.  
 8 Go ahead.  
 9 THE WITNESS: We know that MTBE was released  
 10 at the site sometime prior to May 1996.  
 11 Q. BY MR. ANDERSON: So in the last nine-plus  
 12 years it hasn't gone a thousand feet, right?  
 13 A. That calls for speculation. Because we --  
 14 Q. So it's speculation where it is?  
 15 A. To properly know how far it moved, I would  
 16 need more monitoring wells to assess that.  
 17 Q. Okay. And has Komex recommended that more  
 18 monitoring wells be put in?  
 19 A. That was not part of our scope.  
 20 Q. Okay. And has Komex -- has Komex given an  
 21 opinion that any aspect of the remediation project is  
 22 inadequate?  
 23 A. Komex has not given an opinion on that.  
 24 Q. Okay. And has Komex given an opinion that  
 25 the regulatory agency should have done or should be

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\_Paprocki, Lee, Vol. 1 (pp 001-233)

1 doing more than it has done?  
 2 A. Komex has not given an opinion on that.  
 3 Q. And has Komex given an opinion that the  
 4 responsible party should have done more than it has  
 5 done?  
 6 A. Again, Komex has not given an opinion on  
 7 that.  
 8 Q. And, by the way, that -- in terms of those  
 9 last few questions I asked about whether Komex has an  
 10 opinion as to whether the responsible party, the  
 11 regulatory agency, or anybody else associated with  
 12 the G & M Oil site, would those answers be the same  
 13 for the Unocal/76 site as well as the ExxonMobil  
 14 site?  
 15 MS. O'REILLY: And, Jon, I'm just -- I'm  
 16 just going to clarify your question as respect to  
 17 these reports that we're discussing today, correct?  
 18 MR. ANDERSON: Right.  
 19 MS. O'REILLY: Not getting into any work  
 20 product issues, or anything like that.  
 21 Go ahead.  
 22 THE WITNESS: Correct.  
 23 Q. BY MR. ANDERSON: Okay. Has Komex told  
 24 anyone at OCWD that it believes that it's a problem  
 25 of any kind that the plumes have not been fully

paprocki deposition transcript.txt

3 make it clear. Exhibit 57?  
 4 MR. ANDERSON: Exhibit 57.  
 5 THE WITNESS: For Exhibit 57, the source was  
 6 Orange County Water District.  
 7 Q. BY MR. ANDERSON: Okay. And was -- did the  
 8 document itself come from Orange County Water  
 9 District or did the data showing where the wells were  
 10 come from the district?  
 11 A. The data came from Orange County Water  
 12 District.  
 13 Q. So Komex took the data and plotted the map?  
 14 A. No.  
 15 Q. How did it happen?  
 16 A. From the Orange County data we could -- we  
 17 could view this well location map.  
 18 Q. Okay. Let's turn to the Mobil site summary.  
 19 That's Exhibit 54.  
 20 Anything on there that would tell you when  
 21 it was created?  
 22 A. Just a second.  
 23 Q. I didn't even see a drive-by date.  
 24 A. I have got so many exhibits. Hold on a  
 25 second.

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\_Paprocki, Lee, vol. 1 (pp 001-233)

1 (Discussion held off the written record.)  
 2 Q. BY MR. ANDERSON: Do you have Exhibit 54?  
 3 A. I do. And your question was?  
 4 Q. Can you determine either from the document  
 5 itself or your recollection when it was prepared?  
 6 A. Not exact date, no.  
 7 Q. When is the last time -- is this something  
 8 you did the Q.A. review on?  
 9 A. I looked at this just fairly recently, a  
 10 few -- a few weeks ago. I did more Q.A./Q.C. on the  
 11 figures for this one.  
 12 Q. Okay. But was it prepared some time in the  
 13 last three or four months?  
 14 A. Yes.  
 15 Q. All right. And has Komex determined that  
 16 plume delineation should occur at this site?  
 17 A. That wasn't an objective of Komex.  
 18 Q. So the answer is, no?  
 19 A. No.  
 20 Q. Has Komex determined that any additional  
 21 remediation on this site is necessary?  
 22 A. Komex has not determined that at this time.  
 23 Q. That's also true of the Unocal site?  
 24 A. Yes. I believe we have gone through that.  
 25 Yes.

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1 Q. I think we need to go through it three or  
 2 four different times.  
 3 MS. O'REILLY: We need to go through it  
 4 twice, and then I'm going to cut you off.  
 5 MR. ANDERSON: Right.  
 6 Q. Has Komex assessed the adequacy of the  
 7 regulatory actions and oversight for the ExxonMobil

paprocki deposition transcript.txt

8 site?  
 9 A. No.  
 10 Q. Has it assessed the adequacy of the  
 11 regulatory actions and oversight at the Unocal/76  
 12 site?  
 13 A. No.  
 14 Q. Has it assessed the adequacy of the  
 15 regulatory actions and oversight for the G & M oil  
 16 site?  
 17 A. No.  
 18 Q. Is that also true of the Chevron site?  
 19 A. No data has been analyzed for that.  
 20 Q. So the answer is the same for Chevron?  
 21 A. Right.  
 22 MS. O'REILLY: Are you at the bottom of your  
 23 list of questions?  
 24 MR. ANDERSON: Huh?  
 25 MS. O'REILLY: Are we at the bottom of your

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1 checklist?  
 2 MR. ANDERSON: We're on page 15 of 15. Does  
 3 that satisfy you?  
 4 MS. O'REILLY: Yes, it does.  
 5 MR. ANDERSON: We haven't seen Mr. Parker's  
 6 list yet.  
 7 what's our next exhibit?  
 8 THE REPORTER: 58.  
 9 MR. ANDERSON: 58 is a Service Station  
 10 Summary Sheet for the ExxonMobil site.  
 11 (Exhibit No. 58 was marked.)  
 12 Q. BY MR. ANDERSON: What is Exhibit 58?  
 13 A. It's a database summary report for site 33  
 14 for the ExxonMobil Station 18-668.  
 15 Q. Okay. Remember our discussion about the  
 16 similar document to this for the 76 station?  
 17 A. Yes.  
 18 Q. In terms of preparation, purpose and those  
 19 types of things, would your answers all be the same?  
 20 A. They would.  
 21 Q. I have one page. It's the Komex Bates  
 22 number that ends with 43.  
 23 A. Yes.  
 24 Q. In the upper left-hand corner it says,  
 25 "Service station status active." And then there's

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1 a -- it looks like it's a computer program generated  
 2 arrow down to active service station. I don't think  
 3 I saw anything like this.  
 4 Can you tell me the significance of that  
 5 kind of information on this page?  
 6 A. It's just like the other site that you asked  
 7 me when there was some notes. In this case the  
 8 person did it on Acrobat Reader, where they could  
 9 write electronically on to note it.  
 10 Q. Okay. Okay.  
 11 A. So the upper left is from a Komex.  
 12 Q. Someone took the note and they kind of

(Check one) \_\_\_\_\_ NO CORRECTIONS  
 \_\_\_\_\_ CORRECTIONS PER ATTACHED

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1 DEPONENT'S CHANGES OR CORRECTIONS  
2 Note: If you are adding to your testimony,  
3 the exact words you want to add. If you are  
4 from your testimony, print the exact words you  
5 to delete. Specify with "Add" or "Delete" and  
6 this form.

DATE OF DEPOSITION: JANUARY 17, 2006  
PAGE LINE CHANGE/ADD/DELETE

[illegible]

DATE \_\_\_\_\_

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REPORTER'S CERTIFICATE

LEE PAPROCKI,



paprocki deposition transcript.txt

6 was by me duly sworn to testify in the  
7 within-entitled cause; that said deposition was taken  
8 at the time and place therein named; that the  
9 testimony of said witness was reported by me, a duly  
10 Certified Shorthand Reporter of the State of  
11 California authorized to administer oaths and  
12 affirmations, and said testimony was thereafter  
13 transcribed into typewriting.

14 I further certify that I am not of counsel or  
15 attorney for either or any of the parties to said  
16 deposition, nor in any way interested in the outcome  
17 of the cause named in said deposition.

18 IN WITNESS WHEREOF, I have hereunto set my  
19 hand this 23rd day of January, 2006.  
20

21  
22 SANDRA M. BUNCH  
23 Certified Shorthand Reporter  
24 Certificate No. 3032  
25

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1 PHILLIPS LEGAL SERVICES  
2 350 University Avenue, Suite 270  
3 Sacramento, California 95825  
4 (916) 927-3600

5 LEE PAPROCKI  
6 c/o KOMEX  
7 5455 Garden Grove Blvd., Second Floor  
8 Westminster, California 92683

9 Re: OCWD VS. UNOCAL, ET AL.

10 Date Taken: JANUARY 17, 2006

11 Dear Ms. Paprocki:

12 Your deposition is now ready for you to read, correct  
13 and sign. The original will be held in our office  
14 for 35 days from the date of this letter.

15 If you are represented by counsel, you may wish to  
16 discuss with him/her the reading and signing of your  
17 deposition. If your attorney has purchased a copy of  
18 your deposition, you may review that copy. If you  
19 choose to read your attorney's copy, please fill out,  
20 sign and submit to our office the DEPONENT'S CHANGE  
21 SHEET located in the back of your deposition.

22 If you choose to read your deposition at our office,  
23 it will be available between 9:00 a.m. and 4:00 p.m.  
24 Please bring this letter as a reference.

25 If you do not wish to read your deposition, please  
sign here and return within 30 days of the date of  
this letter.

LEE PAPROCKI

DATE

Sincerely,

22 SANDRA M. BUNCH, CMR, CRR, CSR No. 3032  
23 PHILLIPS LEGAL SERVICES  
24 Job No. 11989LR  
25 cc: ALL COUNSEL APPEARING

paprocki deposition transcript.txt

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1 PHILLIPS LEGAL SERVICES  
2 350 University Avenue, Suite 270  
3 Sacramento, California 95825  
4 (916) 927-3600  
5

6 LATHAM & WATKINS  
7 JON D. ANDERSON, Esq.  
8 650 Town Center Drive, Suite 2000  
9 Costa Mesa, California 92626-1925

10 Re: OCWD vs. UNOCAL, ET AL.  
11 Deposition of: LEE PAPROCKI  
12 Date Taken: JANUARY 17, 2006

13 Dear Mr. Anderson:

14 We wish to inform you of the disposition of this  
15 original transcript. The following procedure is  
16 being taken by our office:

17 \_\_\_\_\_ The witness has read and signed the  
18 deposition. (See attached.)

19 \_\_\_\_\_ The witness has waived signature.

20 \_\_\_\_\_ The time for reading and signing has  
21 expired.

22 \_\_\_\_\_ The sealed original deposition is being  
23 forwarded to your office.

24 Other:

25 Sincerely,

Phillips Legal Services  
Ref No. 11896LR

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8

# **EXHIBIT 49**

1 Duane C. Miller, #57812  
Michael D. Axline, #229840  
2 A. Curtis Sawyer, Jr., #101324  
Tracey L. O'Reilly, #206230  
3 Tamarin E. Austin, #207903  
Evan Eickmeyer, #166652  
4 Daniel Boone, #148841  
**MILLER, AXLINE & SAWYER**  
5 A Professional Corporation  
1050 Fulton Avenue, Suite 100  
6 Sacramento, CA 95825-4272  
Telephone: (916) 488-6688  
7 Facsimile: (916) 488-4288

(Exempt from filing fees  
per Govt. Code, § 6103)

8 Attorneys for Plaintiff  
Orange County Water District  
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF ORANGE

12 ORANGE COUNTY WATER DISTRICT,

13 Plaintiff,

14 v.

15 SABIC INNOVATIVE PLASTICS US, LLC;  
BRENTAG WEST, INC.; GALLADE  
16 CHEMICAL INC.; EMBEE INC.; SANMINA-  
SCI CORPORATION; UNIVERSAL  
17 CIRCUITS, INC.; RADIOSHACK  
CORPORATION; MOBIL CHEMICAL  
18 COMPANY, INC.; ALCOA GLOBAL  
FASTENERS; TROY GROUP INC.; BELL  
19 INDUSTRIES, INC.; EMERSON ELECTRIC  
CO.; PRO-DEX INC.; ACCURATE CIRCUIT  
20 ENGINEERING, INC.; ITT CANON  
INTERNATIONAL, INC.; RICOH  
21 ELECTRONICS, INC.; UNISYS  
CORPORATION and DOES 1 through 400,  
inclusive,

22 Defendants.  
23  
24  
25  
26  
27  
28

CASE NO. 30-2008-00078246-CU-TT-CXC

NOTICE OF RULING

Date: October 10, 2008

Time: 8:30 a.m.

Dept: CX-105

Judge: Hon. Stephen J. Sundvold

Complaint Filed: June 23, 2008




1           **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE**  
2 **NOTICE** that on October 10, 2008, the Court adopted the tentative ruling as the final with the  
3 exception that the plaintiff shall have 30 days to file their amended complaint. Defendants shall  
4 have 30 days from the filing of the amended complaint to file their answer.

5           The Court's Ruling is attached hereto as Exhibit A.

6  
7 Dated: October 20, 2008

MILLER, AXLINE & SAWYER  
A Professional Corporation

8  
9 By:

  
TAMARIN E. AUSTIN  
Attorneys for Plaintiff  
Orange County Water District

## **EXHIBIT A**

**#7 ORANGE COUNTY WATER DISTRICT v. SABIC INNOVATIVE**

**1. MOTION: DEMURRER & MOTION TO STRIKE**

**DEMURRER TO 1<sup>ST</sup> CAUSE OF ACTION**

The First Cause of Action is not for declaratory relief. It seeks costs that will be incurred in the future and all past, present and future response costs as well as damages to natural resources. *Section 8 (c)* is clear. Plaintiff can only recover costs it has already incurred for clean up, containing or abating the contamination or other remedial acts taken. The First Cause of Action is uncertain in that it appears to seek costs which may be incurred in the future. Those are not recoverable.

Defendant is correct that a particular Defendant cannot discern from the pleading the exact nature of its alleged wrongdoing. Defendant is correct that the phrase "and/or" is uncertain.

**MOTION TO STRIKE PUNITIVE DAMAGES**

The allegations of the Complaint do not support a prayer for punitive damages. The allegations are nothing more than legal conclusions. The decision in *SKF v. Superior Court* does not support Plaintiff's position.

The Complaint does not set forth sufficient facts to establish the elements necessary to seek punitive damages against corporate defendants pursuant to *Code of Civil Procedure Section 3294*. Plaintiff must plead facts to support a prima facie claim for punitive damages. If Plaintiff does not have those facts at this time, it must conduct discovery and seek to amend its Complaint at a later time.

**MOTION TO STRIKE CERTAIN OTHER ALLEGATIONS**

Defendant is correct that the *Health and Safety Code* does not provide for injunctive relief and it therefore is not an available remedy.

Plaintiff cannot recover damages to natural resources; those damages are wrongfully pled in the Complaint.

**JOINDER**

The Joinder is proper and is GRANTED.

**SUMMARY**

Defendant's evidentiary objections are SUSTAINED. The documents attached to the Declaration are STRICKEN. The Demurrer is SUSTAINED. The Motion to Strike is GRANTED. Plaintiff shall have 20 days leave to amend

**PROOF OF SERVICE BY MAIL**

I, the undersigned, declare that I am, and was at the time of service of the paper(s) herein referred to, over the age of 18 years and not a party to this action. My business address is 1050 Fulton Avenue, Suite 100, Sacramento, California, 95825, which is located in the county in which this mailing occurred. I am familiar with my office's business practice for collection and processing of correspondence for mailing with the United States Postal Service, and under such practice the correspondence would be deposited with the United States Postal Service, postage pre-paid, the same day in the ordinary course of business.

On October 20, 2008, I served the foregoing document(s) described as:

**NOTICE OF RULING**

on the following persons or parties by placing a true copy thereof in a sealed envelope, showing the addresses set forth below, for collection and deposit in the United States Postal Service on that date following ordinary business practices:

**SEE ATTACHED LIST**

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on October 20, 2008, at Sacramento, California.

  
\_\_\_\_\_  
Denise Carruth



# **EXHIBIT 50**



Feb 12 2009  
10:53AM

Gary J. Smith (State Bar No. 141393)  
Ryan R. Tacorda (State Bar No. 227070)  
Beveridge & Diamond, P.C.  
456 Montgomery Street, Suite 1800  
San Francisco, CA 94104-1251  
Telephone: (415) 262-4000  
Facsimile: (415) 262-4040

Attorneys for Defendant  
Unisys Corporation

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE  
CIVIL COMPLEX CENTER**

ORANGE COUNTY WATER DISTRICT,

Plaintiff,

vs.

SABIC INNOVATIVE PLASTICS US, LLC;  
BRENNTAG WEST, INC.; GALLADE  
CHEMICAL INC.; EMBEE INC.; SANMINA-SCI  
CORPORATION; UNIVERSAL CIRCUITS, INC.;  
RADIOSHACK CORPORATION; MOBIL  
CHEMICAL COMPANY, INC.; ALCOA GLOBAL  
FASTENERS; TROY GROUP INC.; BELL  
INDUSTRIES, INC.; EMERSON ELECTRIC CO.;  
PRO-DEX INC.; ACCURATE CIRCUIT  
ENGINEERING, INC.; ITT CANNON  
INTERNATIONAL, INC.; RICOH  
ELECTRONICS, INC.; UNISYS CORPORATION  
and DOES 1 through 400, inclusive,

Defendants.

Case No. 30-2008-00078246-CU-TT-CXC

**NOTICE OF RULING ON GENERAL  
DEMURRER AND MOTION TO  
STRIKE REGARDING THE FIRST  
CAUSE OF ACTION OF PLAINTIFF'S  
FIRST AMENDED COMPLAINT AND  
REQUESTS FOR JUDICIAL NOTICE  
IN SUPPORT THEREOF**

Hearing: January 23, 2009, 9:00am  
Dep't: No. CX105  
Hearing Judge: Hon. Nancy W. Stock  
Action filed: June 23, 2008  
Trial date: TBD



1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

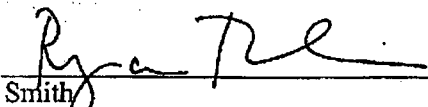
2 **PLEASE TAKE NOTICE** that on January 23, 2009, at 9:00 a.m., certain Defendants'  
3 General Demurrer to the First Cause of Action of Plaintiff Orange County Water District's  
4 ("OCWD") First Amended Complaint,<sup>1</sup> Defendants' Motion to Strike Certain Allegations from the  
5 First Cause of Action of OCWD's First Amended Complaint, and Defendants' Requests for Judicial  
6 Notice in Support of the General Demurrer and All Motions to Strike, came on for hearing in this  
7 Court, the Honorable Nancy W. Stock presiding.

8 On January 23, 2009, Judge Stock ordered that: (1) certain Defendants' General Demurrer to  
9 OCWD's First Cause of Action under the Orange County Water Act ("Water District Act") is  
10 OVERRULED; (2) Defendants' motion to strike OCWD's allegations seeking damages for injury to  
11 Plaintiff's interest in contaminated aquifers under the Water District Act is DENIED; (3)  
12 Defendants' motion to strike OCWD's allegations concerning declaratory relief in the First Cause of  
13 Action is GRANTED; (4) Defendants' Request for Judicial Notice in Support of the General  
14 Demurrer to OCWD's First Cause of Action is GRANTED; and (5) Defendants' Request for Judicial  
15 Notice in Support of all Motions to Strike is GRANTED.

16 On February 10, 2009, the Court entered its Order on the General Demurrer and Motion to  
17 Strike Regarding the First Cause of Action of Plaintiff's First Amended Complaint and Request for  
18 Judicial Notice in Support Thereof. A true and correct file-stamped copy of this Order is attached  
19 hereto as Exhibit A.

20 Dated: February 12, 2009

BEVERIDGE & DIAMOND, P.C.

22 By   
23 Gary J. Smith  
24 Ryan Tacorda  
25 Attorneys for Defendant Unisys Corporation

26 <sup>1</sup> This demurrer was filed by the following Defendants: Accurate Circuit Engineering, Inc., Alcoa  
27 Global Fasteners, Bell Industries, Inc., Brenntag West, Inc., Embee, Inc., Emerson Electric Co.,  
28 Gallade Chemical, Inc., ExxonMobil Oil Corporation, ITT Cannon International, Inc., Pro-Dex, Inc.,  
Radioshack Corporation, Ricoh Electronics, Inc., Sabic Innovative Plastics US, Sanmina-SCI  
Corporation, Troy Group, Inc., Unisys Corporation, and Universal Circuits, Inc.

**EXHIBIT A TO  
NOTICE OF RULING ON GENERAL DEMURRER  
AND MOTION TO STRIKE REGARDING THE  
FIRST CAUSE OF ACTION OF PLAINTIFF'S FIRST AMENDED  
COMPLAINT AND REQUESTS FOR  
JUDICIAL NOTICE IN SUPPORT THEREOF**

ELECTRONICALLY  
RECEIVED

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CIVIL COMPLEX CENTER

Feb 05 2009

ALAN CARLSON, Clerk of the Court

**FILED**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

FEB 10 2009

ALAN CARLSON, Clerk of the Court

BY L BROWN

1 Gary J. Smith (State Bar No. 141393)  
2 Ryan R. Tacorda (State Bar No. 227070)  
3 Beveridge & Diamond, P.C.  
4 456 Montgomery Street, Suite 1800  
San Francisco, CA 94104-1251  
Telephone: (415) 262-4000  
Facsimile: (415) 262-4040

5 Attorneys for Defendant  
6 Unisys Corporation

7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF ORANGE**  
10 **CIVIL COMPLEX CENTER**

11  
12 **ORANGE COUNTY WATER DISTRICT,**

13 **Plaintiff,**

14 **vs.**

15 **SABIC INNOVATIVE PLASTICS US, LLC;**  
16 **BRENNTAG WEST, INC.; GALLADE**  
17 **CHEMICAL INC.; EMBEE INC.; SANMINA-SCI**  
18 **CORPORATION; UNIVERSAL CIRCUITS, INC.;**  
19 **RADIOSHACK CORPORATION; MOBIL**  
20 **CHEMICAL COMPANY, INC.; ALCOA GLOBAL**  
21 **FASTENERS; TROY GROUP INC.; BELL**  
22 **INDUSTRIES, INC.; EMERSON ELECTRIC CO.;**  
23 **PRO-DEX INC.; ACCURATE CIRCUIT**  
24 **ENGINEERING, INC.; ITT CANNON**  
25 **INTERNATIONAL, INC.; RICOH**  
26 **ELECTRONICS, INC.; UNISYS CORPORATION**  
27 **and DOES 1 through 400, inclusive,**

28 **Defendants.**

Case No. 30-2008-00078246-CU-TT-CXC

**[PROPOSED] ORDER ON GENERAL  
DEMURRER AND MOTION TO  
STRIKE REGARDING THE FIRST  
CAUSE OF ACTION OF  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT AND REQUESTS FOR  
JUDICIAL NOTICE IN SUPPORT  
THEREOF**

Hearing: January 23, 2009, 9:00am  
Dep't: No. CX105

Hearing Judge: **NANCY WIEBEN STOCK**  
Action filed: June 23, 2008  
Trial date: TBD

**[Proposed] Order on Demurrer and Motion to Strike Regarding First Cause of Action and  
Requests for Judicial Notice in Support Thereof; Case No. 30-2008-00078246-CU-TT-CXC**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

On January 23, 2009, certain Defendants' General Demurrer to the First Cause of Action of Plaintiff Orange County Water District's ("OCWD") First Amended Complaint,<sup>1</sup> Defendants' Motion to Strike Certain Allegations from the First Cause of Action of OCWD's First Amended Complaint, and Defendants' Requests for Judicial Notice in Support of the General Demurrer and All Motions to Strike, came on for hearing in the above-captioned matter, the Honorable Nancy W. Stock presiding. The appearances of counsel are noted in the record. After full consideration by the Court of the papers and after hearing oral arguments of the parties,

**IT IS HEREBY ORDERED that:**

1. Certain Defendants' General Demurrer to OCWD's First Cause of Action under the Orange County Water District Act is **OVERRULED**.

2. Defendants' Motion to Strike OCWD's allegations seeking damages for injury to Plaintiff's interest in contaminated aquifers under the Orange County Water District Act, Cal. Water Code App. § 40-8, at page 13, lines 10-12, is **DENIED**.

3. Defendants' Motion to Strike OCWD's allegations concerning declaratory relief in the First Cause of Action is **GRANTED**. The words appearing at page 13, lines 20-22, of OCWD's First Amended Complaint, are stricken as follows: "and declaratory relief with respect to defendants' liability for future costs, as described in the District's Sixth Cause of Action."

4. Certain Defendants' Request for Judicial Notice in Support of the General Demurrer to the First Cause of Action of Plaintiff's First Amended Complaint is **GRANTED**. The Court judicially notices OCWD's Notice of Ruling which attaches this Court's October 10, 2008 ruling on the demurrers and motions to strike with respect to Plaintiff's original Complaint.

5. Defendants' Request for Judicial Notice in Support of All Motions to Strike is **GRANTED**. The Court judicially notices OCWD's Notice of Ruling which attaches this Court's

<sup>1</sup> This demurrer was filed by the following Defendants: Accurate Circuit Engineering, Inc., Alcoa Global Fasteners, Bell Industries, Inc., Brenntag West, Inc., Embee, Inc., Emerson Electric Co., Gallade Chemical, Inc., ExxonMobil Oil Corporation, ITT Cannon International, Inc., Pro-Dex, Inc., Radioshack Corporation, Ricoh Electronics, Inc., Sabic Innovative Plastics US, Sanmina-SCI Corporation, Troy Group, Inc., Unisys Corporation, and Universal Circuits, Inc.

1 October 10, 2008 ruling on the demurrers and motions to strike with respect to Plaintiff's original  
2 Complaint and Defendants' October 23, 2008 Notice of Ruling on Defendants' Motions to Strike  
3 which attaches this Court's October 20, 2008 Order Striking Plaintiff's Claim for Injunctive Relief  
4 and Natural Resource Damages and Order Striking Plaintiff's Claim for Punitive Damages.

5 6. These rulings are set forth in the hearing transcript attached as Exhibit A.

6 IT IS SO ORDERED.

7  
8 Dated: 2/9/09

  
NANCY WIEBEN STOCK  
Judge of the Superior Court

OK LB